

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Granlund Analyst: Kimberly Pantoja Bill Number: ACA 43

Related Bills: See Legislative History Telephone: 845-4786 Amended Date: 6/1/98

Attorney: Doug Bramhall Sponsor: _____

SUBJECT: Renters' Credit/\$130 Nonrefundable Credit

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED _____ STILL APPLIES.

☒ OTHER - See comments below.

SUMMARY OF BILL

This constitutional amendment would provide for a credit against personal income tax liability in the amount of \$130 for any qualified renter.

This constitutional amendment also would increase the homeowners' exemption amount from \$7,000 to \$20,000 and eliminate the requirement to increase benefits to qualified renters if the homeowners' exemption is increased. This change would not affect the department or state income tax revenue and is not discussed in this analysis.

SUMMARY OF AMENDMENT

The June 1, 1998, amendments added the Renters' Credit measure.

EFFECTIVE DATE

This constitutional amendment must be voted on at the next election that occurs at least 131 days following its approval by the Legislature. The statutory deadline for approving constitutional amendments for the November 3, 1998, election is June 25, 1998. As a result, this proposed constitutional amendment would appear on the June 2000 ballot. If approved by the voters, this constitutional amendment would take effect on the day after the election and would apply to the 2000 tax year.

LEGISLATIVE HISTORY

AB 1305, SB 351 (1993), AB 2389 (1994), SB 1794 (1996), AB 1592 (1997)
AB 1781 (1998).

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

Gerald H. Goldberg

7/2/98

PROGRAM HISTORY/BACKGROUND

Since the inception of the Renters' Credit program in 1972, the amount of renters' credit, at various times, has been increased, decreased, and phased-out based on a taxpayer's income.

As originally enacted, the renters' credit was based on adjusted gross income, the purpose being to provide a larger proportion of benefit to lower income renters.

SPECIFIC FINDINGS

California Personal Income Tax Law allows qualifying renters a refundable credit of \$60 or \$120, based on filing status. The credit is not related to the amount of rent paid. The renters' credit has been suspended for the 1993 through 1997 tax years, but by statute is reinstated effective January 1, 1998, and will apply to the 1998 taxable year.

Current state law defines a "qualified renter" as an individual who:

- is a California resident, and
- rented and occupied California premises constituting his or her principal place of residence for at least 50% of the taxable year.

In **current state law**, the term "qualified renter" does not include individuals:

- (1) who for more than 50% of the taxable year rented and occupied premises which were exempt from property taxes (subject to certain exceptions);
- (2) whose principal place of residence for more than 50% of the taxable year is with any other person who claimed that individual as a dependent for income tax purposes; or
- (3) who have been granted or whose spouse has been allowed the homeowners' property tax exemption during the taxable year, as specified.

In **current state law**, if the renter has a tax liability below the allowed amount of renters' credit, or no tax liability at all, the renter receives a refund check for the remaining "unused" credit.

The Revenue and Taxation Code defines a "resident" as:

- (1) Every individual who is in this state for other than a temporary or transitory purpose.
- (2) Every individual domiciled in this state who is outside the state for a temporary or transitory purpose.

In **current state law**, any qualified renter who is a nonresident for a portion of the taxable year is allowed 1/12 of the renters' credit for each full month that the individual resided in the state for the taxable year, once the requirement of renting in California for more than 50% of the taxable year has been met.

Existing state law provides general rules that apply to the division of credits among two or more taxpayers, a husband and wife, and partners. Except as specified, **state law** does not allow tax credits to reduce regular tax below the tentative minimum tax for purposes of the alternative minimum tax (AMT) calculation.

Assembly Constitutional Amendment 43 would provide, subject to certain limitations, for a credit against personal income tax liability in the amount of \$130 for any qualified renter, as defined by the Legislature, who rents real property as his or her principal residence.

This measure defines "qualified renter" only as a taxpayer who rents real property as his or her primary residence.

The amount of the credit **this measure** allows to a taxpayer may not exceed that taxpayer's income tax liability for that taxable year, making the credit nonrefundable.

Implementation Considerations

Current state law specifies a renters' credit amount of \$120 for married filing joint returns, heads of households and surviving spouses, and \$60 for other individuals (single). This measure would allow a \$130 credit for each qualified renter. It is unclear whether each spouse could be a qualified renter, allowing a \$260 credit for a married couple. The amount of the credit in relation to each filing status should be clarified.

The renters' credit allowed by the Revenue and Taxation Code (R&TC) has been suspended for the last five tax years, but is reinstated effective January 1, 1998, and will apply to the 1998 taxable year unless suspended again. If the voters approve this measure, there may be two types of renters' credit for the year 2000 since this measure does not repeal or suspend the renters' credit in the R&TC.

It is unclear if the rules regarding tax credits specified in the R&TC (i.e., division of credits, carryover provisions) would apply to this renters' credit. This credit would be in the State Constitution and the rules specified in the R&TC generally reference tax credits allowed under the R&TC.

The existing renters' credit provides various rules for its operation, such as the definition of "qualified renter" and proration for nonresidents. This measure provides that the Legislature may define the term "qualified renter." It is unclear if the current definition in the R&TC would apply or whether the Legislature would need to enact legislation quickly following the June 2000 election so these issues could be clarified prior to the filing season for tax year 2000.

FISCAL IMPACT

Departmental Costs

Once the implementation concerns are resolved, departmental costs are not expected to be significant but any additional costs would not be requested until the 2000-2001 fiscal year.

Tax Revenue Estimate

Revenue losses from this proposed measure are as follows:

Estimated Revenue Impact of ACA 43 Effective for Tax Years Beginning January 1, 1999 (in millions)			
	1999-0	2000-1	2001-2
Current Law Impact	(\$533)	(\$538)	(\$544)
ACA 43 Proposed Impact	(\$382)	(\$386)	(\$390)

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Tax Revenue Discussion

The above estimates for renters' credit were based on the department's personal income tax model. Since the revised credit would be nonrefundable, approximately 2.5 million renters could not claim the credit, which reduces the losses by \$151 million for the 1999 tax year as compared to the refundable renters' credit in current law.

This measure would provide for a nonrefundable credit against personal income tax liability in the amount of \$130 for any qualified renter. For this revenue estimate, it is assumed the credit amount applies to all filing statuses and does not provide for a \$260 credit for married filing joint taxpayers.

BOARD POSITION

Pending.